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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/541,136	05/11/2006	Erik Bach	502388-854	4391
29540 7590 02/26/2009 DAY PITNEY LLP 7 TIMES SQUARE NEW YORK, NY 10036-7311				
EXAMINER				
YOUNG, SCOTT E				
ART UNIT		PAPER NUMBER		
4193				
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02/26/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/541,136

**Applicant(s)**

BACH ET AL.

**Examiner**

SCOTT YOUNG

**Art Unit**

4193

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7, 11-13 and 15-17 is/are rejected.
- 7) ☒ Claim(s) 8-10 and 14 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/S5108)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date 5/11/2006

**DETAILED ACTION**

***Specification***

1. The disclosure is objected to because of the following informalities: The title cannot begin with 'A' or 'An'.

Appropriate correction is required.

***Claim Objections***

2. Claim 15 is objected to because of the following informalities: In Claim 15, line 1, the word "element" is missing between the words "building" and "for". Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 1-7, 11-13 and 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jury (US 6,026,687) in view of Radelet (US 1,443,275).
6. Claim 1: Jury discloses a building set that comprises a vibrator building element (1) with a device for generating vibrations (1a) and coupling means for interconnection with the remaining building elements of the building set (30), wherein the coupling means constitute the sole interface for outputting generated vibrations (col. 9, lines 1-2). Jury fails to disclose building elements with coupling means for interconnecting building elements. Radelet teaches building elements with coupling means for interconnecting building elements (col. 1, lines 8-14). It would have been obvious at the time of the invention to one having ordinary skill in the art to utilize the connecting means of Radelet to connect the building elements of Jury, since such a modification would secure the building elements together and provide a more realistic test of vibrations.
7. Claims 2 and 15: Jury discloses that the building set comprises a sensor building element with a vibration sensor (31) configured for emitting signals representing sensed vibrations and coupling means for interconnection with remaining building elements of the building set (col. 5, lines 52-60).
8. Claim 3 and 16: Jury discloses that the vibration sensor (28) of the sensor building element is configured for emitting a signal that represents vibration rate (col. 5, lines 55-57).
9. Claim 4 and 17: Jury discloses that the vibration sensor of the sensor building element is configured for emitting a signal that represents the vibration acceleration (col. 5, lines 60-65).

10. Claim 5: Jury discloses that the building set comprises an instrument for recording the signals representing vibrations from the vibration sensor (col. 5, line 66 – col. 6, line 4).

11. Claim 6: Jury discloses that the coupling means (30) of the vibrator building elements are the only means of the vibrator building element that are configured for transmitting mechanical energy from the vibrator building element (fig. 2).

12. Claim 7: Jury discloses that the device of the vibrator building element for generating vibrations comprises a motor (9) with a rotatable shaft (12) and an eccentric mass (11) on the shaft (12; col. 5, lines 3-7).

13. Claim 11: Jury discloses that the vibrator building element has a device for generating vibrations (1) and coupling means (30) for interconnection with the remaining building elements of the building set; wherein said coupling means are the only interface for outputting generated vibrations (fig. 2).

14. Claim 12: Jury discloses that the coupling means (30) of the vibrator building element (1) are the only means of the vibrator building elements that are configured for transmitting mechanical energy from the vibrator building element (fig. 2).

15. Claim 13: Jury discloses that the device of the vibrator building element for generating vibrations comprises a motor (9) with a rotatable shaft (12) and an eccentric mass (11) on the shaft (12; col. 5, lines 3-7).

***Allowable Subject Matter***

16. Claims 8-10 and 14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. These references are Bach et al. (US 4,124,949), Shackelford (US 6,443,796 B1), Babai et al. (US 6,206,745), Fetridge et al. (US 6,585,553 B1), Chung (US 5,779,515), Bojesen et al. (US 6,547,624 B1) and Coombs (US 3,538,756).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SCOTT YOUNG whose telephone number is (571)270-7609. The examiner can normally be reached on Monday thru Friday 8:30am to 6:00pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, DERRIS BANKS can be reached on (571)272-4419. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/SCOTT YOUNG/  
Examiner, Art Unit 4193

/Derris H Banks/  
Supervisory Patent Examiner, Art  
Unit 3725